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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY 7ccm DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

YOUNG YIL JO,
BOP #01183-112,

Plaintiff,

vs.

SIX UNKNOWN NAMES AGENTS;
BARACK OBAMA, President of the United
States,

Defendants.

Civil No. 13cv1879 BEN (WVG)

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEES REQUIRED
BY 28 U.S.C. § 1914(a) AND/OR
FAILING TO MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

Plaintiff, currently detained at the Immigration and Customs Enforcement Processing Center located in El Paso, Texas, and proceeding pro se, filed an incomprehensible one-page complaint entitled "Civil Rights Action with the Writ of Summons and Complaint" "under 42 U.S.C. § 1983" (ECF No. 1) on August 12, 2013.

I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$400. See

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28 U.S.C. § 1914(a).¹ An action may proceed despite a party's failure to pay this filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Plaintiff has not prepaid the \$400 in filing and administrative fees required to commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C. § 1914(a); *Andrews*, 493 F.3d at 1051.

II. CONCLUSION AND ORDER

For the reasons set forth above, the Court hereby:

(1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to 28 U.S.C. § 1914(a) and § 1915(a); and

(2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or* (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust account statement for the 6-month period preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).²

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¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013, must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a), (b); Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However, the additional \$50 administrative fee is waived if the plaintiff is granted leave to proceed IFP. *Id.*

² Plaintiff is cautioned that if he chooses to proceed further with this action either by paying the full \$400 in civil and administrative fees required by 28 U.S.C. § 1914(a), or moving to proceed IFP, his Complaint, which is currently comprised of a single page of nonsensical legal jargon seeking unspecified relief against unidentified "agents" and the President of the United States, will be screened and immediately dismissed as frivolous pursuant to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(b). *See Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) "not only permits but requires" the court to sua sponte dismiss an *in forma pauperis* complaint that fails to state a claim); *see also Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing sua sponte screening required by 28 U.S.C. § 1915A(b) of all prisoner complaints).

1 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with this
2 Court's approved form "Motion and Declaration in Support of Motion to Proceed *In Forma*
3 *Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee or complete and submit the
4 enclosed Motion to Proceed IFP within that time, this action shall remain dismissed without
5 prejudice and without further Order of the Court.

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7 DATED: 8/19/2013


8 HON. ROGER T. BENITEZ
9 United States District Judge
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